



PRESS RELEASE

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Justice Department Announces Joint Resolution with Two Banks Under Swiss Bank Program

The Department of Justice announced today that Edmond de Rothschild (Suisse) SA and Edmond de Rothschild (Lugano) SA (collectively EdR Switzerland) reached a joint resolution under the department's [Swiss Bank Program](#). EdR Switzerland will pay a penalty of more than \$45 million.

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 31, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared U.S.-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- Make a complete disclosure of their cross-border activities;
- Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;
- Cooperate in treaty requests for account information;
- Provide detailed information as to other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;
- Agree to close accounts of accountholders who fail to come into compliance with U.S. reporting obligations; and
- Pay appropriate penalties.

Swiss banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the joint non-prosecution agreement signed today, EdR Switzerland agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts and pay a penalty in return for the department's agreement not to prosecute EdR Switzerland for tax-related criminal offenses.

Edmond de Rothschild (Suisse) SA is a corporation organized under the laws of Switzerland with its headquarters in Geneva, Switzerland, and it operates a subsidiary called Edmond de Rothschild (Lugano) SA (collectively EdR Switzerland). EdR Switzerland, one of the largest private banks in Switzerland, also operates a financial services business in Geneva, Lausanne, Fribourg and Lugano, Switzerland. It offers private banking and wealth management services for individual clients around the world, including U.S. citizens, legal permanent residents and resident aliens.

EdR Switzerland is affiliated with the Edmond de Rothschild Group, an independent, family-controlled financial group focused on high-net-worth individual clients. The Edmond de Rothschild Group was founded in 1953 and currently operates in 19 countries worldwide. In 2012, EdR Switzerland agreed to acquire the Lugano-based Sella Bank AG, which became part of Edmond de Rothschild (Lugano) SA in 2013.

For decades prior to and through 2013, EdR Switzerland aided and assisted U.S. clients in opening and maintaining undeclared accounts in Switzerland and concealing the assets and income they held in these accounts. EdR used a variety of means to assist U.S. clients in concealing their undeclared accounts, including by:

- Providing traditional Swiss banking products such as hold mail, code name and numbered account services;
- Assisting clients in using sham entities, such as structures as nominee beneficial owners of the undeclared accounts;
- Providing offshore credit cards, cash cards and debit cards to repatriate funds from the undeclared accounts;
- Structuring transfers of funds from undeclared accounts to evade currency transaction reporting requirements;
- Facilitating the covert repatriation of undeclared accounts via cash withdrawals, the purchase of luxury goods and transfers to the foreign bank accounts of non-U.S. friends, family and business associates;
- Accepting and suggesting the use of Internal Revenue Service (IRS) forms that falsely stated under penalties of perjury that the sham entities beneficially owned the assets in the undeclared accounts; and
- Divesting U.S. securities from its undeclared U.S. accounts for the purpose of subverting its Qualified Intermediary (QI) Agreement with the IRS.

EdR Switzerland relationship managers assisted numerous U.S. clients in covertly repatriating undeclared account funds by structuring transfers in amounts under \$10,000 to avoid detection by U.S. authorities. For example, after numerous discussions with one U.S. client regarding his intent to covertly repatriate his undeclared account funds, an EdR Switzerland relationship manager issued a series of checks in the amount of \$8,500 made out to the U.S. client drawn on EdR Switzerland's bank account at UBS in Switzerland. The same relationship manager also assisted this U.S. client in withdrawing \$11,000 in cash before re-depositing \$2,000 based on "customs limitations." In another instance, an EdR Switzerland relationship manager assisted a U.S. client in transferring 145,000 Swiss francs to the Swiss UBS account of a luxury watch maker.

Several EdR Switzerland employees notated the advice they provided regarding the repatriation of undeclared U.S. client funds. One relationship manager noted the following about his discussion with a U.S. client: "Telephonic contact with the account holder. Explained to him the situation with respect to U.S. citizen account holders. Asked what to do. Suggested to him to make a donation to his wife." An assistant to a different relationship manager made this note in an account file: "Explained to [the niece] our need to close the account (client residing in USA) and only possible solution transfer of account to a person not resident in the USA."

Certain relationship managers assisted or otherwise facilitated some U.S. individual taxpayers in establishing and maintaining undeclared accounts in a manner that concealed the U.S. taxpayers' ownership or beneficial interest in said accounts. At least one EdR Switzerland relationship manager coordinated with an external trust company to create and administer an offshore structure incorporated in Singapore. EdR Switzerland relationship managers also knew or had reason to know that U.S. clients used external trust companies and attorneys to create and administer structures incorporated or based in offshore locations such as the British Virgin Islands, Panama and Liechtenstein. For certain U.S. client accounts, EdR Switzerland relationship managers and other employees knowingly accepted and included in EdR Switzerland's account records IRS Forms W-8BEN (or EdR Switzerland's substitute forms) provided by the directors of the offshore companies that falsely represented under penalty of perjury that such companies were the beneficial owners.

At least one relationship manager assisted two U.S. clients in closing their undeclared accounts at EdR Switzerland by briefly opening up new individual accounts at EdR Switzerland, into which EdR Switzerland transferred the funds from the undeclared accounts, and then transferred the funds from the new accounts to insurance wrapper accounts in Liechtenstein. Insurance wrappers were marketed to U.S. clients by third-party providers in the wake of the UBS investigation as a means of disguising the beneficial ownership of U.S. clients.

Throughout its participation in the Swiss Bank Program, EdR Switzerland has made comprehensive disclosures regarding its U.S.-related accounts. Among other things, EdR Switzerland provided actionable information concerning numerous U.S. client accounts held at EdR Switzerland since August of 2008 permitting the department to make treaty requests to the Swiss competent authority for U.S. client account records. EdR Switzerland also described in detail its U.S. cross-border business, including the policies or lack of policies that contributed to misconduct committed by relationship managers, supervisory relationship managers and EdR Switzerland management; the supervisory chain overseeing relationship managers; and the names of senior management and legal and compliance officials.

Since Aug. 1, 2008, EdR Switzerland held and managed approximately 950 U.S. client accounts, which included both declared and undeclared accounts, with aggregate peak of assets under management of \$2.16 billion. EdR Switzerland will pay a penalty of \$45.245 million.

In accordance with the terms of the Swiss Bank Program, EdR Switzerland mitigated its penalty by encouraging U.S. accountholders to come into compliance with their U.S. tax and disclosure obligations. While U.S. accountholders at EdR Switzerland who have not yet declared their accounts to the IRS may still be eligible to participate in the [IRS Offshore Voluntary Disclosure Program](#), the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS Offshore Voluntary Disclosure Program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today's announcement of this non-prosecution agreement, noncompliant U.S. accountholders at EdR Switzerland must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

Acting Assistant Attorney General Caroline D. Ciraolo of the Justice Department's Tax Division thanked the IRS and in particular, IRS-Criminal Investigation and the IRS Large Business & International Division for their substantial assistance. Acting Assistant Attorney General Ciraolo also thanked Kevin F. Sweeney, who served as counsel on this matter, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.

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